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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,877	11/08/2001	Tsuyoshi Kano	7217/65961	7475
530	7590	12/18/2008	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				HOSSAIN, FARZANA E
ART UNIT		PAPER NUMBER		
2424				
			MAIL DATE	
			DELIVERY MODE	
			12/18/2008	
			PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/010,877	KANO, TSUYOSHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	FARZANA E. HOSSAIN	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 November 2008.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 8-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 8-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11/8/01 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to communications filed 11/10/2008. Claims 1-7 are cancelled. Claims 8, 11, 14 and 17 are amended. Claims 9, 10, 12, 13, 15 and 16 have been previously presented.

***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

The applicant argues that the cited prior art does not discloses the program information including a program label and unit portions designated based on the program label. The applicant argues that Bedard does not disclose teach a program label and unit portions designated based on the label (Pages 6-7).

In response to the argument, the examiner agrees. The references do not disclose the new limitation. Bedard discloses that the receiver continuously receives a channel and/or a program for a predetermined period and a reception is not recorded in the reception log wherein the receiver does not receive a channel and/or a program for the predetermined time period (Column 5, lines 52-65). Please see new rejections.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ivanyi (US 6,286,140) in view of Del Sesto et al (US 6,530,082 and hereafter referred to as “Delsesto”), Aras et al (US 5,872,588 and hereafter referred to as “Aras”) and Bedard (US 5,801,747).

Regarding Claims 8 and 11, Ivanyi discloses a viewing and listening information computing apparatus (Figure 1, 4, Figure 4) comprising: reception state management means for obtaining a reception log of at least one broadcast receiver (Figure 1, 4, Figure 2, 45, Figure 3, 28-31, Column 7, lines 64-67, Column 8, lines 1-5); a database in which the obtained reception log and program information concerning a broadcast program are recorded (Figure 1, 4, Figure 4, 56, Column 10, lines 1-8, Figure 5, 90); and viewing and listening information management means (Figure 4, 41) for computing viewing and listening information which is information concerning viewing and/or listening based on the reception log and the program information read from the database (Column 9, lines 25-40, lines 66-67, Column 10, lines 1-8, lines 59-65). Ivanyi discloses that the television viewer behavior is monitored for channel being

viewed (Column 9, lines 66-67, Column 1-10). Ivanyi is silent on the reception state management means for obtaining a receiver ID, of at least one broadcast receiver, a database in which receiver ID is recorded and program information including a program label and unit portions designated based on the program label viewing and listening management means for computing viewing and listening information based on receiver ID read from the database, predetermined time a channel and/or program is viewed and to not record a reception in the reception log in the storage unit when the receiving unit does not continuously receive a channel and/or a program for at least the predetermined period, and that the viewing and listening information includes viewer preferences for each segment of a program.

Delsesto disclose a reception state management means for obtaining a reception log or response packet and a receiver ID of at least one broadcast receiver (Figure 5, Column 15, lines 26-39, Column 13, lines 32-39, Column 9, lines 66-67, Column 10, lines 1-42), a database in which the reception log and receiver ID are recorded and program information concerning a broadcast program are recorded (Column 13, lines 40-55, Column 15, lines 26-67, Column 16, lines 1-16), the program information including a program label (Column 13, lines 40-55) and viewing and listening management means for computing viewing and listening information which is information concerning viewing and listening based on the reception log or response packet, the receiver ID read from the database (Column 15, lines 26-67, Column 16, lines 1-16).

Aras discloses a viewing and listening computing apparatus (Column 12, lines 40-64), comprising: storage for storing the obtained reception log, receiver ID and program information of a broadcast program (Column 12, lines 40-64, Column 13, lines 13-23, Column 17, lines 57-67), the program information including a program label and unit portions designated based on the program label (Column 9, lines 4-15, Column 10, lines 10-30, Column 8, lines 1-25); the viewing and listening information includes viewer preferences for each unit portion of a program (Column 10, lines 10-30, Column 8, lines 1-25, Table I).

Bedard discloses a broadcast receiver (Column 3, lines 4-15) comprising: a reception of at least one broadcast receiver only when the only one broadcast receiver continuously receives one of a channel (Column 4, lines 38-48) and a program (Column 5, lines 52-65) for at least a predetermined period (Column 5, lines 52-65) and does not record a reception in the reception log in the storage unit when the receiving unit does not continuously receive a channel and/or a program for at least the predetermined period (Column 3, lines 62-67, Column 4, lines 1-15); the viewing and listening information includes viewer preferences for each unit portion of a program (Column 3, lines 62-67, Column 4, lines 1-15, 38-65, Figure 2).

Therefore, it would have been obvious at the time the invention was made to modify Ivanyi to include a reception state management means for obtaining a receiver ID of at least one broadcast receiver (Figure 5, Column 15, lines 26-39, Column 13, lines 32-39, Column 9, lines 66-67, Column 10, lines 1-42), a database in which the receiver ID are recorded, and viewing and listening

management means for computing viewing and listening information which is information concerning viewing and listening based on the receiver ID read from the database (Column 15, lines 26-67, Column 16, lines 1-16) as taught by Delsesto in order to accurately monitor of viewer ship and usage (Column 1, lines 28-65) as disclosed by Delsesto. Therefore, it would have been obvious at the time the invention was made to modify the combination to include storage for storing the obtained reception log, receiver ID and program information of a broadcast program (Column 12, lines 40-64, Column 13, lines 13-23, Column 17, lines 57-67), the program information including a program label and unit portions designated based on the program label (Column 9, lines 4-15, Column 10, lines 10-30, Column 8, lines 1-25), the viewing and listening information includes viewer preferences for each unit portion of a program (Column 10, lines 10-30, Column 8, lines 1-25, Table I) as taught by Aras in order to determine usage of users for advertisers and marketers (Column 1, lines 19-23) as disclosed by Aras. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include that a reception of at least one broadcast receiver only when the only one broadcast receiver continuously receives one of a channel (Column 4, lines 38-48) and a program (Column 5, lines 52-65) for at least a predetermined period (Column 5, lines 52-65) and does not record a reception in the reception log in the storage unit when the receiving unit does not continuously receive a channel and/or a program for at least the predetermined period (Column 3, lines 62-67, Column 4, lines 1-15) as taught by Bedard in order to provide make sure that a viewer

surfing channels is not recorded because it is insignificant viewing and the profile is able to focus on viewer's true interests (Column 3, lines 62-67, Column 4, lines 1-5) as disclosed by Bedard.

Regarding Claims 9 and 12, Ivanyi, Delsesto, Aras and Bedard disclose all the limitations of Claims 8 and 11 respectively. Ivanyi discloses that the reception log includes one of channel received by the broadcast receiver (Column 10, line 1, Column 7, lines 19-20), program identification information or detailed information in reference to a program or commercial (Column 10, lines 59-65, Column 11, lines 1-12) and reception period information (Column 8, lines 1-25, Column 10, lines 1-8); and the viewing and listening information to be computed includes an audience rating for one of a predetermined channel (Column 9, lines 38-40) and program (Column 10, lines 59-64, Column 11, lines 1-12).

Regarding Claims 10 and 13, Ivanyi, Delsesto, Aras and Bedard disclose all the limitations of Claims 8 and 11 respectively. Ivanyi discloses that the reception log includes one of a channel received by the broadcast receiver (Column 10, line 1, Column 7, lines 19-20) and program identification information or detailed information in reference to a program or commercial (Column 10, lines 59-65, Column 11, lines 1-12) and reception period information (Column 8, lines 1-25, Column 10, lines 1-8); and the viewing and listening information to be computed includes a non-viewing and non-listening rating for one of a predetermined channel or program or the central computer processes polling information for a large group of viewers to obtain statistical information about

viewer behavior for demographic and geographic groups, which reads on viewers and non viewers being polled on programs/channels viewed (Column 9, lines 34-40, Column 10, lines 53-67, Column 11, lines 1-24).

5. Claims 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ivanyi in view of Delsesto and Aras.

Regarding Claims 14 and 17, Ivanyi discloses a system and a method of obtaining viewing and listening information (Figure 1, 100), comprising: a receiver (Figure 1, 1), including:

A receiving unit for selecting a channel and for receiving a broadcast (Figure 2, 21, Column 6, lines 48-52, Column 7, lines 10-12); a controller for controlling channel selection (Figure 2, 21, Column 7, lines 10-12) and for detecting a reception log (Figure 2, 21, 33A-D, Column 7, lines 13-30); a memory for storing the reception log (Column 7, lines 64-67, Column 8, lines 1-12, 33-39, Figure 1, 36); a viewing and listening information computing apparatus communicatively coupled to the receiver (Figure 1, 4, Figure 4), the viewing and listening information computing apparatus including: a reception state management computer for obtaining a reception log from the receiver (Figure 4, 45, Figure 1, 4, Figure 3, 28-31, Column 7, lines 65-67, Column 8, lines 1-5, 40-63, Column 9, lines 25-40); a database in which the obtained reception log is recorded (Figure 1, 4, Figure 4, 45); a program management computer for receiving program information including program ID or detailed information in

reference to a program or commercial (Column 10, lines 59-65, Column 11, lines 1-12, Figure 4, 4) and a viewing and listening information management computer for computing viewing and listening information concerning viewing and listening for a program based on the reception log, and the program information (Figure 4, 41, Column 9, lines 25-40, 66-67, Column 10, lines 1-8, 59-65). Ivanyi is silent on a memory storing a receiver ID; the reception state management computer obtaining the receiver ID from the receiver; a database in which the obtained receiver ID are recorded; and a viewing and listening information management computer for computing viewing and listening information concerning viewing and listening for each segment of a program based on the reception log, the receiver ID, and the program information, and for transmitting the used to computed viewing and listening information to a program producer.

Delsesto discloses that each receiver has a receiver ID that is included in the response and a storage device (Figure 1, 120, Figure 2, 120, 212, 214, Column 10, lines 35-36, Figure 5, 530). It is necessarily included that the receiver has a memory storing the receiver ID as it is included in the response packet. Delsesto discloses a reception state management means for obtaining a reception log or response packet and a receiver ID of at least one broadcast receiver (Figure 5, Column 15, lines 26-39, Column 13, lines 32-39, Column 9, lines 66-67, Column 10, lines 1- 42), a database in which the receiver ID is recorded (Column 15, lines 26-54), a program management computer for receiving program information including a program ID or any data used to identify a program (Column 16, lines 2-16, Figures 6A-B) and viewing and listening

management means for computing viewing and listening information for a program based on the reception log or response packet, the receiver ID and program information (Column 15, lines 26-67, Column 16, lines 1-16, Figure 4, 422, 424, 426, Figure 6) for transmitting the computed viewing and listening information to a program producer (Column 5, lines 11-16, Column 16, lines 18-29). Aras discloses a viewing and listening computing apparatus (Column 12, lines 40-64), comprising: obtaining reception log, receiver ID and program information of a broadcast program (Column 12, lines 40-64, Column 13, lines 13-23, Column 17, lines 57-67), the program information including a program label and unit portions designated based on the program label (Column 9, lines 4-15, Column 10, lines 10-30, Column 8, lines 1-25) and the viewing and listening information includes viewer preferences for each unit portion of a program (Column 10, lines 10-30, Column 8, lines 1-25, Table I).

Therefore, it would have been obvious at the time the invention was made to modify Ivanyi to include receiver has a memory storing the receiver ID (Figure 1, 120, Figure 2, 120, 212, 214, Column 10, lines 35-36, Figure 5, 530), a reception state management means for obtaining a receiver ID of at least one broadcast receiver (Figure 5, Column 15, lines 26-39, Column 13, lines 32-39, Column 9, lines 66-67, Column 10, lines 1- 42), a database in which the receiver ID is recorded (Column 15, lines 26-54), and viewing and listening management means for computing viewing and listening information for a program based on the reception log or response packet, the receiver ID and program information (Column 15, lines 26-67, Column 16, lines 1-16, Figure 4, 422, 424, 426, Figure

6) for transmitting the computed viewing and listening information to a program producer (Column 5, lines 11-16, Column 16, lines 18-29) as taught by Delsesto in order to accurately monitor of viewer ship and usage (Column 1, lines 28-65) as disclosed by Delsesto. Therefore, it would have been obvious at the time the invention was made to modify the combination to include the program information including a program label and unit portions designated based on the program label (Column 9, lines 4-15, Column 10, lines 10-30, Column 8, lines 1-25) and the viewing and listening information includes viewer preferences for each unit portion of a program (Column 10, lines 10-30, Column 8, lines 1-25, Table I) as taught by Aras in order to determine usage of users for advertisers and marketers (Column 1, lines 19-23) as disclosed by Aras.

Regarding Claim 16, Ivanyi, Delsesto and Aras disclose all the limitations of Claim 14. Delsesto discloses the receiver and the viewing and listening information computing apparatus are coupled via an external computer (Figure 1, 120, 122, 128).

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ivanyi in view of Delsesto, Aras and Bedard as applied to claim 14 above, and further in view of Ozer et al (US 6,704,929 and hereafter referred to as "Ozer").

Regarding Claim 15, Ivanyi, Delsesto and Aras disclose all the limitations of Claim 14. Ivanyi discloses a viewing and listening information computing apparatus communicatively coupled to the receiver (Figure 1, 4, Figure 4). Ivanyi, Delsesto and Aras are silent on the receiver and the viewing and listening

information computing apparatus are coupled via a communication network including the Internet. Ozer discloses the receiver and the viewing and listening information computing apparatus are coupled via a communication network including the Internet (Column 10, lines 8-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include the receiver and the viewing and listening information computing apparatus are coupled via a communication network including the Internet (Column 10, lines 8-10) as taught by Ozer in order to provide a way to find out an audience share of television programs to determine program schedules, advertising schemes, price rates for airtime and retention or termination of programs (Column 1, lines 23-31) as disclosed by Ozer.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARZANA E. HOSSAIN whose telephone number is (571)272-5943. The examiner can normally be reached on Monday to Friday 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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FEH

December 15, 2008